

### **REMARKS/ARGUMENTS**

The preceding amendments and following remarks are submitted in response to the non-final Office Action mailed January 31, 2005. With this Amendment, claims 1, 13, 25, 29 have been amended, and claims 30-42 have been added. Claims 1-42 remain pending in the Application. Reconsideration, examination and allowance of all pending claims are respectfully requested.

#### **Claim Objections**

In paragraph 1 of the Office Action, the Examiner objected to claims 1 and 13 stating that the term "tubular" should be inserted before the term "shaft" contained on line 8 of these claims. In addition, the Examiner objected to claims 25 and 29 stating that the term "cremation" should be inserted before the term "urn" contained on line 3 of these claims. The Examiner states that appropriate correction is required.

In response thereto, Applicants have amended claims 1, 13, 25, and 29 to recite the term "tubular" and "cremation" in these claims, as indicated by the Examiner. Applicants respectfully assert that these amendments overcome the Examiner's objections to the claims.

#### **35 U.S.C. § 102(b) Rejections**

In paragraph 3 of the Office Action, the Examiner rejected claims 25 and 26 under 35 U.S.C. § 102(b) as being anticipated by "Double Companion Memorial" (hereinafter "DCM"). Applicants respectfully traverse this rejection.

As shown in the attached marked-up copy, the DCM reference appears to suggest a memorial (10) including a natural stone stand (12), a container (14), and a plaque (16). The container (14) appears to extend upwardly from the natural stone stand (12), which forms a base of the memorial (10) that supports the container (14) above the ground (18).

In contrast, claim 25 of the present Application recites:

25. A system for displaying a cremation urn, comprising:  
a mineral slab having an upper surface and a bottom surface;  
*a cremation urn assembly secured to and extending at least in part below  
the bottom surface of the mineral slab; and*  
a display stand for supporting the cremation urn assembly and mineral  
slab in an upright and angled position.

(emphasis added). As can be seen above, claim 25 recites, among other elements, a cremation urn assembly secured to and extending at least in part below the bottom surface of a mineral slab. Such configuration can be clearly seen, for example, in Figure 2 of the application, which shows an urn assembly (12) extending at least in part below the bottom surface of a mineral slab (14).

Unlike the system recited in claim 25, the memorial disclosed in the DCM reference does not appear to have a container extending at least in part below the bottom surface of a mineral slab. Indeed, the DCM reference appears to suggest an opposite configuration wherein the container (14) extends upwardly from the natural stone stand (12). As such, Applicants respectfully assert that claim 25 is not anticipated by the DCM reference.

Since independent claim 25 is allowable, dependent claim 26 is also allowable for the reasons stated above, and since it adds other significant elements to distinguish it from the cited prior art.

In paragraph 6 of the Office Action, the Examiner rejected claims 25 and 26 under 35 U.S.C. § 102(b) as being anticipated by *Wood et al.* (U.S. Patent No. 6,389,664). Applicants respectfully traverse this rejection.

The *Wood et al.* reference appears to suggest an underground burial system (10) comprising a sundial (12), a support plate (14), and a burial container assembly (20) including a cylindrical canister (22) for internment of cremated remains. The support plate (14) is

configured to support the container assembly (20) within the ground in a manner such that the container assembly (20) is completely buried and resides under the surface (35) of the ground.

According to *Wood et al.*:

After the burial site is excavated and prepared, the burial system is disposed in the vertically upright position shown in FIG. 4 such that the sealed burial container assembly 20 is completely buried and resides under the ground surface as at 35. The support plate 14 resides on the ground surface to firmly locate the system 10 and to suspend and support the underlying burial container assembly 20 including the cremated remains 38 of the deceased family member or pet.

*Id.* at col. 4, line 64 to col. 5, line 5.

Since the container assembly (20) in *Wood et al.* is configured to lie completely underneath the ground surface (35), Applicant respectfully asserts that the *Wood et al.* reference does not disclose or suggest a display stand, as recited in independent claim 25. Moreover, since *Wood et al.* does not disclose a display stand, Applicant asserts that *Wood et al.* also fails to disclose or suggest a display stand that supports a cremation urn assembly in an upright and angled position, as further recited in claim 25. Accordingly, Applicant respectfully asserts that claims 25-26 are further patentable over the *Wood et al.* reference.

In paragraph 9 of the Office Action, the Examiner further rejected claims 25, 27, and 28 under 35 U.S.C. § 102(b) as being anticipated by *Allen et al.* (U.S. Patent No. 5,172,457). With respect to claim 25, the Examiner states that reference number 12 of the *Allen et al.* reference discloses “a slab” formed of bronze or brass as opposed to “a mineral material as claimed by applicant.” The Examiner states, however, that mineral materials, bronze, and brass are known art recognized material equivalents, as evidenced by *Jackson* (U.S. Patent No. 5,379,499) at col. 4, lines 55,59. Thus, according to the Examiner, it would have been an obvious design choice to modify *Allen et al.* such that the slab and/or urn was fabricated of mineral materials as the

selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art.

Applicant respectfully asserts that the substitution of a mineral slab material for the urn cap (12) of *Allen et al.* would not have been an obvious design choice since such material would not be suitable for its intended purpose. In *Allen et al.*, the cap (12) is described as having a dome (70) and a cap lip (76) that extends radially inwardly around an in the cap (12). As shown in Figure 2, a number of cap detents (80) formed on the cap (12) are configured to fit within a corresponding number of grooves (82) formed on the top portion (84) of a canister (14), forming a bayonet-type closure that prevents gas flow into or out of the canister (14). According to *Allen et al.*, the bayonet-type closure allows the cap (12) to be assembled to the canister (14) without the use of rubber or non-metallic O-rings, allowing the urn to remain substantially airtight for an extended period of time. *See Id.* at col. 3, lines 40-45.

The substitution of a mineral slab material for the metal cap (12) in *Allen et al.* would not be suitable for producing a bayonet-type fitting that inhibits gas flow into or out of the canister (14). Unlike metals such as brass or bronze, mineral slab typically has a rough or porous surface texture that would not function to prevent gases from flowing into or out of the canister (14) without the use of a gasket, O-ring, or other sealing means, which is specifically taught away from in *Allen et al.* Moreover, the ability to accurately manufacture detents on a cap made of mineral slab would be difficult since the tolerances on mineral slab tend to be greater than that of metals such as brass or bronze. The detents on a metal cap, for example, could be easily formed with relatively tight tolerances using equipment such as a punch press whereas the same feature on a mineral slab would require other, more difficult manufacturing steps to be taken. Other manufacturing considerations such as strength, defect rate, cost, and ease of manufacturing

would also negate the use of mineral slab as an obvious design choice for the cap material in *Allen et al.* Thus, since the use of a mineral slab would not have been an obvious design choice suitable for its intended purpose, Applicant respectfully asserts that claims 25, 27, and 28 are not anticipated by *Allen et al.*

**Allowable Subject Matter**

In paragraph 13 of the Office Action, the Examiner states that claims 1-24 and 29 are allowed.

With this Amendment, claims 30-42 have been added, which Applicant submits are patentable over the cited prior art.

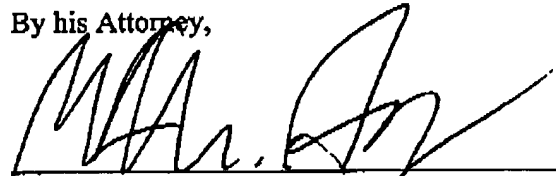
In view of the foregoing, Applicant respectfully asserts that all pending claims are in condition for allowance. Reexamination and reconsideration are respectfully requested. If the Examiner would like to discuss the Application or its examination, please call the undersigned at (612) 677-9050.

Respectfully submitted,

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By his Attorney,

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